

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

GARY LEE BROWN,)	Civil Action No. 4:19-cv-3487-SAL-TER
)	
Plaintiff,)	
)	
-vs-)	
)	ORDER
)	
PATRICIA RAY, ALLISON DAYS,)	
and KENDRA FLING,)	
)	
Defendant.)	
)	

Presently before the court are Defendants Ray and Days' Motion to Compel (ECF No. 33), Plaintiff's Motion to Compel (ECF No. 39), Plaintiff's Motion to Amend Complaint (ECF No. 43), Defendants Ray and Days' Motion to Strike (ECF No. 50), Plaintiff's Motions for Copies (ECF Nos. 51, 58), and Plaintiff's Motion for Extension of Time (ECF No. 61).¹ All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(d), DSC.

In their motion to compel, Defendants Ray and Days assert that they served discovery requests on Plaintiff to which Plaintiff never responded. Plaintiff did not file a response to these Defendants' motion. Accordingly, the Motion to Compel (ECF No. 33) is **GRANTED**, and **Plaintiff must serve responses to Defendants' discovery requests within ten days of the date of this order.**

In his motion to compel, Plaintiff asserts that his inmate grievance records that Defendants Ray and Days produced in response to Plaintiff's request for production of documents were

¹Other, dispositive motions are pending and will be addressed by separate Report and Recommendation.

“incomplete” or “defects.” Plaintiff wrote to Defendants to inform them of the incomplete documents prior to filing his motion. Defendants assert that upon receiving Plaintiff’s letter, counsel reviewed the production and noticed that several of the pages produced were blank. Therefore, counsel obtained corrected copies and supplemented Defendants’ discovery responses. In his reply, however, Plaintiff argues that Defendants still have not produced all of his grievance records. Plaintiff’s Motion to Compel (ECF No. 39) is **GRANTED**. **Within ten days of the date of this order**, Defendants Ray and Days are directed to determine whether any other documents exist that are responsive to Plaintiff’s request for “any and all grievance records of Plaintiff from the time of his incarceration in DCDC,” and either produce the additional documents or provide Plaintiff with an affidavit stating that no additional documents responsive to Plaintiff’s request exist.

Plaintiff also filed a proposed amended complaint which was filed as a motion to amend. Defendant Fling filed a response in opposition, and Defendants Ray and Days filed a separate motion to strike the motion to amend. Under the scheduling order, the deadline to file motions to amend pleadings was March 23, 2020. Plaintiff filed his amended complaint (construed as a motion) on August 25, 2020, well after the deadline. Because Plaintiff attached no motion to the proposed amended complaint, he has failed to show good cause for allowing the amendment after the deadline. Accordingly, Plaintiff’s Motion to Amend (ECF No. 43) is **DENIED** and Defendants Ray and Days’ Motion to Strike (ECF No. 50) is **MOOT**.

In Plaintiff’s Motions for Copy (ECF Nos. 51, 58), Plaintiff seeks a copy of the proposed amended complaint referenced above and states that he did not have time to make a copy of it before he sent it in for filing because he had to meet the August 30, 2020 deadline (in the second motion, he refers to the September 29, 2020, deadline). However, in a text order (ECF No. 34) entered on June 22, 2020, granting the parties’ motions for extension of time, the only deadline extended was

the deadline for dispositive motions, which was extended to August 31, 2020 (later extended again to September 30, 2020). Neither Plaintiff nor any of the Defendants requested an extension of the pleadings deadline. Plaintiff's Motions for Copy (ECF No. 51, 58) are **GRANTED** and the Clerk of Court is directed to provide Plaintiff with a copy of ECF No. 43. However, for the reasons set forth above the requested document is not the operative pleading in this case.

Plaintiff's Motion for Extension of Time (ECF No. 61) is **GRANTED**.

In sum, Defendants Ray and Days' Motion to Compel (ECF No. 33) is **GRANTED**, Plaintiff's Motion to Compel (ECF No. 39) is **GRANTED**, Plaintiff's Motion to Amend Complaint (ECF No. 43) is **DENIED**, Defendants Ray and Days' Motion to Strike (ECF No. 50) is **MOOT**, Plaintiff's Motions for Copy (ECF Nos. 51, 58) are **GRANTED**, and Plaintiff's Motion for Extension of Time (ECF No. 61) is **GRANTED**.

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

November 10, 2020
Florence, South Carolina